

# EXHIBIT 3

1                   IN THE UNITED STATES DISTRICT FOR  
2                   THE MIDDLE DISTRICT OF TENNESSEE  
3                   NASHVILLE DIVISION

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4                   DAN McCaleb, Executive  
5                   Editor of  
6                   THE CENTER SQUARE,

7                   Plaintiff,

8                   vs.

9                   MICHELLE LONG, in her  
10                  official capacity as  
11                  DIRECTOR of the  
12                  TENNESSEE ADMINISTRATIVE  
13                  OFFICE OF THE COURTS,

14                  Defendant.

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15                  Case No. 3:22-cv-00439

16                  Judge Richardson

17                  Magistrate Judge  
18                  Frensley

19                  Deposition of:

20                  GINO BULSO

21                  Taken on behalf of the Plaintiff  
22                  October 9, 2023

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23                  Saba McKinley, LCR, RPR, CRI

# A P P E A R A N C E S

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11  
12                  (**None marked**)

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4           The deposition of GINO BULSO was taken by counsel  
5 for the Plaintiff, by Notice, at the John Sevier State  
6 Office Building, 500 Dr. Martin Luther King, Jr.  
7 Boulevard, Nashville, Tennessee, on October 9, 2023, for  
8 all purposes under the Federal Rules of Civil Procedure.

9           All formalities as to caption, notice, statement  
10 of appearance, et cetera, are waived. All objections,  
11 except as to the form of the question, are reserved for  
12 the hearing, and that said deposition may be read and  
13 used in evidence in said cause of action in any trial  
14 thereon or any proceeding herein.

15          It is agreed that SABA MC KINLEY, LCR, RPR, CRI,  
16 may swear the witness, and that the reading and signing  
17 of the completed deposition by the witness are waived.

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GINO BULSO,

3 was called as a witness, and after having been first  
4 duly sworn, testified as follows:

## EXAMINATION

7 QUESTIONS BY MR. DOUGHERTY:

8 Q Good morning, Mr. Bulso.

9 A Good morning.

10 Q Have you ever had your deposition taken before  
11 today?

12 | A Yes.

13 Q When was that?

14 A Several times.

15 Q Can you recall those times and in what -- what  
16 the reason was?

17 A Sure. I believe I gave several depositions in  
18 litigation with a adverse party named Ken Nelson, who  
19 was a defendant in a fraudulent transfer case that I  
20 filed. He filed some type of an action against me, and  
21 I think there were one or two depositions in that case.

22 Q And that litigation that was filed by  
23 Mr. Nelson, that was against you in your capacity as an  
24 attorney?

25 A Yes and no. I was an attorney. He sued me as

1 a party, claiming some type of malicious prosecution.

2 Q Okay.

3 A And it was a deposition that was given, I  
4 think, here in Nashville. At some point, the case was  
5 dismissed and refiled in Wisconsin. Before that case  
6 was dismissed, I may have testified again. And then  
7 there was another action brought by parties from  
8 San Francisco in which I was deposed.

9 MR. DOUGHERTY: I tell you what. Let's go off  
10 the record for a second.

11

12 (Discussion off the record)

13

14 BY MR. DOUGHERTY:

15 Q Mr. Bulso, I appreciate that. I should have  
16 probably clarified.

17 You're an attorney; is that correct?

18 A Yes.

19 Q When I asked that question, I was referring to  
20 you specifically being part of a deposition, giving your  
21 deposition.

22 Did you understand that correctly?

23 A Yes.

24 Q Okay. I'll try to clarify that next time.

25 Do you understand, Mr. Bulso, that you are

1 under oath here today?

2 A Yes.

3 Q Are you prepared to answer the questions that I  
4 ask of you today?

5 A To the best of my ability.

6 Q Okay. Have you taken any medications before  
7 your deposition today that could affect your ability to  
8 give honest and truthful answers?

9 A No.

10 Q Will you inform me if you do not understand a  
11 question had that I ask of you today?

12 A Yes.

13 Q I will try to clarify that to the best of my  
14 ability.

15 And then, I know you're an experienced  
16 attorney, it's my understanding. So any time you need  
17 to take a break, feel free and we can.

18 A All right.

19 Q Then just a couple other points.

20 Obviously, in giving depositions, it's very  
21 important to give audible, verbal responses.

22 Do you understand that?

23 A Yes.

24 Q I know quite frequently, as a matter of habit,  
25 we all kind of nod our heads. It's important, for the

1 court reporter, for you to give audible and verbal  
2 answers.

3                   Okay?

4           A    Understood.

5           Q    You understand the procedures we've outlined  
6 here today for conducting your deposition?

7           A    Could you ask that again?

8           Q    Sure. Do you understand the procedures we've  
9 gone over for conducting your deposition today?

10          A    I presume they're in accordance with the  
11 Federal Rules of Civil Procedure.

12          Q    That's correct. I meant kind of general  
13 guidelines; if you need a break, those simple kind of  
14 common sense things.

15                  Do you understand that?

16          A    I do.

17          Q    Can you please state your full name for the  
18 record?

19          A    Eugene Nicholas Bulso, Jr.

20          Q    You go by Gino; is that correct?

21          A    Correct.

22          Q    Okay. How old are you and what is your date of  
23 birth?

24          A    61. December 25, 1961.

25          Q    Where do you live, Mr. Bulso?

1 A Brentwood, Tennessee.

2 Q How long have you lived there?

3 A 28 years.

4 Q Okay. Where do you work?

5 A I work at Bulso PLC. 155 Franklin Road, Suite  
6 400, Brentwood, Tennessee.

7 Q You're an attorney; is that correct?

8 A Yes.

9 Q Are there any other attorneys in practice with  
10 you at your firm?

11 A Yes.

12 Q How many other attorneys are in practice with  
13 you?

14 A Three.

15 Q What are their names?

16 A Paul Krog, Nicholas Bulso, and Niko Tsiovaras.

17 Q The other Nicholas Bulso, that a relative?

18 A Yes.

19 Q Is he your son?

20 A Exactly.

21 Q Okay. Does he go by "Junior" or "the third" or  
22 anything like that?

23 A He goes by Nicholas.

24 Q Okay. What other law firms have you been  
25 associated with prior to your current firm?

1 A Boult Cummings Conners & Berry, and Leader  
2 Bulso & Nolan PLC.

3 Q Can you give me the approximate years when you  
4 were with Boult Cummings?

5 A 1986 to May 2008.

6 Q And the other firm that you gave, what was that  
7 name again?

8 A Leader Bulso & Nolan.

9 Q Approximately what years were you associated  
10 with that firm?

11 A 2008 to 2020.

12 Q How long again have you been associated with  
13 your current firm, Bulso PLC?

14 A Since its formation in about May of 2020.

15 Q Where did you go to undergraduate school?

16 A Cornell college.

17 Q What year did you graduate from Cornell?

18 A 1983.

19 Q What school -- what law school did you attend  
20 and graduate from?

21 A Emory.

22 Q In Atlanta?

23 A Yes.

24 Q What was your graduation year?

25 A 1986.

1 Q How many state bar licenses do you currently  
2 carry?

3 A One.

4 Q And what is that?

5 A Tennessee.

6 Q Do you recall the year of your first admission?

7 A Yes.

8 Q What is that?

9 A 1986.

10 Q Are you admitted to any other courts besides  
11 the state of Tennessee courts?

12 A Yes.

13 Q What are those?

14 A In the federal system, the U.S. Supreme Court,  
15 the U.S. Court of Appeals for the 6th Circuit, U.S.  
16 Court of Appeals for the 5th Circuit, U.S. Court of  
17 Appeals for the 4th circuit.

18 The Middle District of Tennessee. The Eastern  
19 District of Tennessee, the Western District of  
20 Tennessee, the Eastern District of Arkansas, the  
21 Southern District of Texas, the Eastern District of  
22 Wisconsin.

23 And those are the ones that I can recall right  
24 now.

25 Q You did a better job than I did. I typically

1 have to look at my plaques on the wall to figure that  
2 out.

3                   Have you ever been formally disciplined by a  
4 state bar licensing authority?

5           A    No.

6           Q    Have you ever been disciplined by a court that  
7 you're admitted in?

8           A    I have not.

9           Q    Have you ever been convicted of a crime?

10          A    I have not.

11          Q    Other than the Ken Nelson matter that you  
12 described, have you ever been sued before?

13          A    In the San Francisco matter that I mentioned  
14 earlier.

15          Q    Is that the Ken Nelson matter?

16          A    That's a different case.

17          Q    Okay. Let's try -- I just want to get this for  
18 the record.

19          A    Sure.

20          Q    Can you tell me the name of the litigation and  
21 what court in what you refer to as Ken Nelson  
22 litigation?

23          A    That was Nelson vs. Bulso, originally filed in  
24 the Davidson County Chancery Court and later filed in  
25 the Eastern District of Wisconsin.

1 Q Do you happen to recall the case number or  
2 anything like that?

3 A I do not.

4 Q Do you recall the year when that was filed?

5 A I do not.

6 Q How did that litigation conclude?

7 A It was dismissed.

8 Q You were a defendant in that case?

9 A Correct.

10 Q That was a civil matter?

11 A Yes.

12 Q You refer to something -- the San Francisco  
13 litigation; is that correct?

14 A Right. There was an action, San Francisco  
15 Residence club versus Leader Bulso & Nolan PLC. I  
16 believe I was individually named in that case as well.

17 Q When was that lawsuit filed?

18 A Sometime around 2014 or '15.

19 Q Did that conclude, that case conclude?

20 A It was dismissed on summary judgment.

21 Q What court was that in?

22 A Ultimately, it was in the Northern District of  
23 Alabama.

24 Q You say "ultimately." Was it in another court  
25 before it got transferred?

1 A Yes.

2 Q What court was that?

3 A As I recall, it was originally filed in state  
4 court in Marin County, California. It was removed to  
5 the Northern District of California, Federal District  
6 Court, and then transferred to Alabama.

7 Q Okay. Are you represented by counsel today?

8 A Yes.

9 Q Who represents you?

10 A Ashley Carter.

11 Q Ms. Carter's here today, correct?

12 A Yes.

13 Q How did you learn of your deposition today,  
14 that it was going to be taken today?

15 A I was advised by counsel.

16 Q Okay. As a nonparty to this lawsuit, you're  
17 entitled, under federal statute, to receive a daily fee  
18 for your attendance plus mileage reimbursement. I  
19 believe I may have sent an email either -- last week to  
20 the other -- Mr. Stahl's group, who represents Director  
21 Long.

22 Where should I send your check for your  
23 appearance today and your mileage fee, number one? Who  
24 should I send that to?

25 A You can send that to me at the firm.

1 MR. DOUGHERTY: Is that okay, Ms. Carter?

2 MS. CARTER: Yes.

3 BY MR. DOUGHERTY:

4 Q You've already given -- can you go ahead and  
5 give me that address once again?

6 A Sure. It's Bulso PLC. 155 Franklin Road,  
7 Suite 400, Brentwood, Tennessee 37027.

8 Q And then, should I calculate your mileage  
9 reimbursement from your office to this office and then  
10 back to be able to send you a check?

11 A That would be fine.

12 Q Okay.

13 A It should be -- it will be nine miles either  
14 way.

15 Q Okay. Great.

16 All right. Mr. Bulso, are you familiar with  
17 the Advisory Commission on the Rules of Practice and  
18 Procedure that was created by Tennessee Code annotated  
19 16-3-601?

20 A Yes.

21 Q What is that?

22 A It's a commission that the General Assembly  
23 created to advise the Supreme Court on rules of practice  
24 and procedure.

25 Q When you say "the Supreme Court," you're

1 referring to Tennessee Supreme Court; is that right?

2 A Yes.

3 Q Are the members of that commission typically  
4 listed on the Tennessee Administrative Office of the  
5 Courts' website?

6 MS. CARTER: Can I just make a clarification  
7 for the record --

8 MR. DOUGHERTY: Yes.

9 MS. CARTER: -- as we're going into this?

10 So I just want to clarify that you've noticed  
11 him in his individual capacity. That's -- to the extent  
12 he knows, he's welcome to testify to it, but I just want  
13 to make sure that it's clear on the record that he's not  
14 testifying for the commission in the deposition today.

15 MR. DOUGHERTY: I think that's correct. I  
16 think the reason for Mr. Bulso's testimony is in his,  
17 which we'll get into, his capacity as chair of the  
18 Advisory Commission.

19 MS. CARTER: Right. But he's not here to  
20 testify on behalf of the commission as its chair. He's  
21 here to testify as an individual.

22 So I just want to make certain that as we go  
23 through, he's providing whatever knowledge he has to you  
24 just for clarification purposes.

25 MR. DOUGHERTY: Okay.

1 BY MR. DOUGHERTY:

2 Q Can you describe the commission?

3 A A commission is a group of attorneys and judges  
4 appointed by the Tennessee Supreme Court pursuant to  
5 16-3-601 to assist it in modifying Rules of Civil and  
6 Criminal Procedure.

7 Q We'll get to those different committees in a  
8 moment.

9 So I think you said this already, but there are  
10 members of the judiciary that serve on the commission?

11 A In an ex officio capacity, yes.

12 Q What does that mean?

13 A It means they're nonvoting members.

14 Q But they're on the actual Advisory Commission,  
15 the judicial members?

16 A I'm not sure exactly how to answer that. I  
17 know that the statute gives the Supreme Court the  
18 authority to appoint members to the commission. I know  
19 that we've got attorneys who vote on proposals that come  
20 before the commission, and that we have judges who are  
21 involved in the meetings but who do not actually vote.

22 When you say that they're members of the  
23 commission, I'm not exactly sure I can answer that  
24 specifically.

25 Q Have you ever gone to the AOC website and seen

1 the names that were listed for the Advisory Commission  
2 on that website?

3 A Yes.

4 Q Does it list names of judicial members?

5 A I don't know.

6 Q I've actually viewed it this morning. I will  
7 give you some names, and you can tell me if they are  
8 members of the judiciary.

9 Okay?

10 A Sure.

11 Q So it list you as the chair, Gino Bulso, and  
12 that's correct?

13 A It is.

14 Q How long have you been the chair for the  
15 Advisory Commission?

16 A The last two years.

17 Q Do you recall the year or the day that you were  
18 appointed to the commission as chair?

19 A Not the specific date, no.

20 Q Would it have been 2020 or after that?

21 A It was either in 2020 or 2021.

22 Q In your current appointment as chair of the  
23 Advisory Commission, how long is the term?

24 A My understanding is it's one year.

25 Q Did you serve as chair in 2022?

1 A Yes.

2 Q Was that for the full year?

3 A Yes.

4 Q Did you serve as chair in 2021?

5 A At least for part of the year, I believe so.

6 Q You were appointed, you think, halfway or part  
7 of the way through 2021; is that your testimony?

8 A No. My testimony is that I was appointed, I  
9 believe, either in 2020 or 2021. I don't recall  
10 specifically which year it was.

11 Q Okay. Are you -- is it your understanding  
12 you're to chair the full year in 2023?

13 A My understanding is that I'm to be chair so  
14 long as the Supreme Court wants me to be. And at some  
15 point, if they decide to fill that role with some other  
16 person, then obviously they'll issue an order doing  
17 that.

18 But I serve at the pleasure of the Supreme  
19 Court as chair.

20 Q So earlier you testified that your term was one  
21 year. By that you mean, as I understand it from what  
22 you just said, it's a rolling one year until you're  
23 notified that you're no longer chair?

24 A I'm not sure I'd say it quite that way.

25 Q I'm just trying to understand. I just wanted

1 to clarify that point.

2 A Sure. I was appointed by the Supreme Court to  
3 be chair of the Advisory Commission, and then at least  
4 once or possibly twice since I was initially appointed,  
5 the Supreme Court liaison has asked me to continue in  
6 that role. And I've agreed to do so.

7 Q How does the Supreme Court communicate with you  
8 about that?

9 A Principally through the liaison.

10 Q Do they -- do any of the members of the Supreme  
11 Court communicate with you by email regarding your role  
12 as chair?

13 A I do not believe I've ever exchanged an email  
14 with anyone on the Supreme Court about that, no.

15 Q And you never exchanged email with Director  
16 Michelle Long of the Tennessee AOC about your --  
17 regarding your role as chair?

18 A Not that I recall.

19 Q We'll get to the other members. It's my  
20 understanding that there are some AOC staff members that  
21 serve on the commission; is that correct?

22 A I do not believe that it is.

23 Q Okay. Then let's unpack that.

24 A Can you explain that?

25 A I don't believe there's anyone at the AOC who

1 is actually on the commission.

2 Q Okay. So my understanding, from looking at the  
3 website this morning, it lists AOC staff contact  
4 Michelle Consiglio-Young.

5 Do you know her?

6 A Yes.

7 Q Does she attend Advisory Commission meetings?

8 A Yes.

9 Q What is her role on the Advisory Commission, or  
10 what is her role when she does attend the meetings?

11 A Her role is that of a facilitator.

12 Q Okay. Can you explain what that means?

13 A Sure. Our meetings are conducted remotely, and  
14 so there is a Zoom link that is hosted for the meeting,  
15 and Michelle typically is in charge of hosting the  
16 remote connection. So she'll circulate a link to the  
17 reporter for the commission, who will then circulate it  
18 to the other commission members.

19 And then Michelle will be virtually online  
20 throughout the meeting to manage the connection.

21 Q Does Ms. Young -- is it fair to say she  
22 provides administrative support to the Advisory  
23 Commission?

24 A Yes.

25 Q Now, when you said that -- we'll get in, a

1 little bit later, to meetings being open to the public.  
2 But when you said that your meetings are remote, what  
3 did you mean by that?

4 A What I meant was that currently, when we  
5 conduct meetings of the Advisory Commission, that the  
6 members of the commission are not in the same place.  
7 Rather, they're meeting through a Internet connection.

8 Q When did the remote meetings of the Advisory  
9 Commission, when did that begin?

10 A Well, as long as I've been on the commission,  
11 at least some portion of the meeting has been remote.

12 Q Would that have been in 2020?

13 A Can you clarify?

14 Q Did the remote Advisory Commission meetings  
15 begin in 2020?

16 A No.

17 Q Did they begin in 2021?

18 A No.

19 Q Did they begin in 2022?

20 A No.

21 Q Did they begin in 2023?

22 A No.

23 Q Okay. I'm just trying to understand. When did  
24 the remote meetings start, when you all were in  
25 different places having your meeting?

1       A    Well, as I stated a moment ago, for as long as  
2 I've been on the commission, at least some portion of  
3 the meeting has been remote.

4       Q    Okay. Were you on the commission in any other  
5 capacity prior to your serving as chair?

6       A    Yes.

7       Q    Tell us what -- when that was and what was your  
8 role.

9       A    I was initially appointed as a member of the  
10 commission, I believe, in 2016.

11      Q    So, in 2016, you were not the chair; is that  
12 correct?

13      A    That is correct.

14      Q    How many years do you recall serving prior to  
15 being appointed chair?

16      A    I would estimate four to five years.

17      Q    When you started in 2016 with your initial  
18 appointment to the Advisory Commission, is it your  
19 testimony that you all held meetings remotely?

20      A    In part, yes.

21      Q    Okay. Were there some times where you met  
22 physically, in person?

23      A    What I mean by "in part" is that the way the  
24 meetings were conducted were through videoconference.  
25 So we have a room of commission members in Nashville who

1 would be joined by videoconference with other members  
2 who were meeting together in the same room in Memphis,  
3 and a third group of members meeting in Knoxville. And  
4 also there sometimes were members who participated by  
5 telephone.

6 So that was a hybrid of having some members in  
7 person; yet, meeting, in part, being conducted remotely  
8 through videoconference.

9 Q In 2016, when you met -- did your group meet  
10 here in the Nashville area?

11 A Yes.

12 Q What office did you meet at?

13 A At the AOC.

14 Q The Tennessee AOC office?

15 A Yes.

16 Q That was in 2016?

17 A Yes.

18 Q Do you recall who the chair was of the Advisory  
19 Commission when you were first appointed?

20 A I do.

21 Q Who was that?

22 A Jim Doran.

23 (Stenographer interrupts for  
24 clarification.)

25 THE WITNESS: D-O-R-A-N.

1 BY MR. DOUGHERTY:

2 Q Is Mr. Doran still on the commission?

3 A No.

4 Q When he was chair, was he -- what did he do --  
5 strike that question.

6 When he was chair, was he a private attorney or  
7 was he a judge?

8 A He was an attorney.

9 Q Was he in private practice in the Nashville  
10 area?

11 A Yes.

12 Q Do you know if he is still practicing law in  
13 Tennessee?

14 A I believe so, yes.

15 Q Do you know what firm he's with?

16 A I believe I do.

17 Q Can you name it, please?

18 A I believe he's with what is now Holland &  
19 Knight.

20 Q Who was the executive director of the Tennessee  
21 AOC in 2016, when you were first appointed?

22 A I do not remember.

23 Q Was it Michelle Long?

24 A I do not believe it was, no.

25 Q Do you know the current deputy director, Rachel

1 Harmon, of the Tennessee AOC?

2 A I know of her.

3 Q Does she ever participate in you all's meetings  
4 currently?

5 A I do not recall Rachel ever being in one of our  
6 meetings.

7 Q Do you recall if she was working with the AOC  
8 in 2016, when you were first appointed?

9 A I do not.

10 Q You do not recall, or you do not know?

11 A I do not recall.

12 Q When you were first appointed in 2016, were any  
13 of those meetings ever open to the public?

14 A I'm not sure.

15 Q Do you ever -- you don't ever recall the  
16 Advisory Commission discussing whether the meeting  
17 should or should not be open to the public?

18 A Correct.

19 Q Do you ever recall seeing a public meeting  
20 notice for any of those meetings beginning in 2016?

21 A I do not recall seeing such a notice.

22 Q Was there someone on the Tennessee AOC staff  
23 that provided administrative support during these  
24 meetings for you?

25 A Yes.

1 Q Who was that?

2 A Michelle Consiglio.

3 Q So she's currently providing administrative  
4 support. I think that's your testimony, correct?

5 A I believe she's currently on maternity leave.  
6 But when she's not on maternity leave, yes, she is.

7 Q I think you're right. She'll be back in  
8 November, is my understanding.

9 It's also your testimony when you joined the  
10 Advisory Commission in 2016, Ms. Young was there  
11 participating in your meetings?

12 A I believe so. I believe she was participating  
13 then in the same respect that she participates now.

14 Q And that would be providing administrative  
15 support?

16 A Yes.

17 Q From 2016 through 2022, during your time  
18 serving on the commission, were any of those meetings  
19 ever open to the public?

20 A I'm not sure.

21 Q How would you know if they were open to the  
22 public?

23 A I mean, if someone had told me, I presume that  
24 I would know.

25 Q If there were a public meeting notice still

1 posted on the Tennessee AOC website that says there's a  
2 meeting that's open to the public, would you think that  
3 that meeting probably was open to the public?

4 A I'm not sure.

5 Q Let me rephrase it.

6 Were there any members of the public that  
7 physically came in to any of the offices that you  
8 observed during these meetings?

9 A I do not recall that happening.

10 Q Do you ever recall seeing some type of video  
11 setup that allowed the meetings to be broadcast to the  
12 public from 2016 to 2022?

13 A I do not recall that.

14 Q We'll go through some more names later. I want  
15 to go kind of back -- more names of the current  
16 commission members.

17 Okay?

18 A Sure.

19 Q Are there different subcommittees of the  
20 Tennessee Advisory Commission?

21 A No.

22 Q Can you give me a summary of what the  
23 commission does in terms of the various court rules that  
24 it reviews potential rules?

25 A Sure. In summary, there will be proposals made

1 by members of the commission or by other attorneys or  
2 judges across Tennessee, or by others, to modify an  
3 existing rule of evidence, appellate procedure, civil  
4 procedure, criminal procedure, or juvenile procedure.

5                   And then we will, at a Advisory Commission  
6 meeting, typically assign the proposal to one of our  
7 standing committees. And then the committee will  
8 discuss the proposal amongst itself and then report at  
9 the next Advisory Commission meeting as to what their  
10 recommendation would be with regard to the proposal.

11                   We will then, at some point, vote on whether to  
12 adopt a rule change, and if so, that is prepared by the  
13 AOC and presented to the Supreme Court.

14           Q    Is there a committee to make recommendations  
15 for the Criminal Rules of Tennessee Procedure?

16           A    We have a committee on the Rules of Criminal  
17 Procedure. I'm not sure that I would characterize that  
18 what that committee does is recommendations. They will  
19 investigate a proposed rule change and then report at a  
20 Advisory Commission meeting. And then one or more  
21 members of that committee may make a motion to adopt a  
22 rule change, at which point it's debated by the entire  
23 commission.

24           Q    Does the Tennessee Advisory Commission make  
25 rule recommendations on the Criminal Rules of Procedure?

1 MS. CARTER: I'm sorry. Can you just repeat  
2 that last question?

3 MR. DOUGHERTY: Sure.

4 BY MR. DOUGHERTY:

5 Q Does the Tennessee Advisory Commission on the  
6 Rules of Practice and Procedure make recommendations to  
7 the Tennessee Supreme Court regarding the Criminal Rules  
8 of Procedure?

9 A Yes.

10 Q Does the Tennessee Advisory Commission make  
11 rule recommendation to the Supreme Court regarding the  
12 Civil Rules of Procedure?

13 A We do.

14 Q Does the Tennessee Advisory Commission make  
15 rule recommendations to the Supreme Court regarding the  
16 Appellate Rules of Procedure?

17 A Yes.

18 Q Does the Tennessee Advisory Commission make  
19 rule recommendations to the Supreme Court regarding the  
20 Rules of Evidence?

21 A Yes.

22 Q Does the Tennessee Advisory Commission make  
23 rule recommendations to the Supreme Court regarding the  
24 Juvenile Rules of Procedure?

25 A We do.

1 Q How do you communicate -- how does the Advisory  
2 Commission communicate these rule recommendations to the  
3 Tennessee Supreme Court?

4 A Through the AOC.

5 Q So once a rule recommendation is made, the  
6 Advisory Commission will communicate those  
7 recommendations directly to the AOC?

8 A I wouldn't characterize it that way.

9 Q Well, you just said that. I just want to  
10 understand it.

11 Can you explain how that process works?

12 A Well, if there is a firm vote by a majority of  
13 the members of the Advisory Commission on a proposed  
14 rule change, somehow, administratively, that is prepared  
15 by the AOC. And then from that point, it's communicated  
16 to the full Supreme Court.

17 Q Does Michelle Consiglio-Young, once a vote has  
18 been taken on a rule change, does she then go back to  
19 the AOC, or do you, as chair, communicate with the AOC  
20 as far as the rule change?

21 A To the Supreme Court?

22 Q To the AOC.

23 A Well, Michelle's present at the meetings, so  
24 she knows what happened.

25 Q Yeah. I'm just trying to understand the

1 process.

2 Let's say the commission makes a vote --

3 A Yeah.

4 Q -- for a rule recommendation. Do you then, as  
5 chair, get on your email and send an email to someone at  
6 the AOC office?

7 A No.

8 Q Does -- is it your understanding that  
9 Ms. Michelle Consiglio-Young, since she's present, does  
10 she then go back to the AOC and communicate that to the  
11 director, for example?

12 A I don't know.

13 Q But it's your understanding that the AOC is the  
14 next point of contact who receives the rule  
15 recommendations from the Advisory Commission?

16 A I think that's fair. I would also add that we  
17 do have a reporter that's appointed by the Supreme Court  
18 for the Advisory Commission, and so there likely is some  
19 involvement between Michelle at the AOC and our reporter  
20 on actually packaging the rule and communicating it to  
21 the full Supreme Court.

22 Q Who is the current reporter for the Tennessee  
23 Advisory Commission?

24 A Lynn Zehrt.

25 Q How do you spell her last name?

1 A I believe it's Z-E-R-T.

2 Q Would her name be listed, Ms. Zehrt's name,  
3 would it be listed on the website that sets out the  
4 names for the Advisory Commission members?

5 A I don't know.

6 Q I see it. Lynn Zehrt, would it be Z-E-H-R-T?

7 A Yes. I left out the H.

8 Q And the same Lynn Zehrt that is a professor at  
9 Belmont University College of Law?

10 A She is.

11 Q Was she, Ms. Zehrt, the reporter when you first  
12 joined in 2016?

13 A No.

14 Q Do you recall who the reporter was then?

15 A I do not.

16 Q So by "reporter," does that mean an individual  
17 who is taking notes? Is that what Ms. Zehrt does?

18 A I don't know whether she takes notes. The  
19 function of the reporter is to prepare agenda for the  
20 meetings, to take minutes of the meetings, to take the  
21 role at meetings.

22 Q Is it your understanding that Ms. Zehrt would  
23 take the minutes, the meeting minutes?

24 A Yes. She does currently.

25 Q She also is the one who handles putting the

1 agenda together?

2 A Correct.

3 Q Who determines the agenda for each meeting?

4 A Working together, the reporter and the chair.

5 Q So you work with Ms. Zehrt to come up with an  
6 agenda for the next meeting?

7 A Exactly.

8 Q In 2016, when you first joined, how frequently  
9 were meetings held of the Advisory Commission?

10 A Quarterly.

11 Q Has that always been the case, quarterly  
12 meetings?

13 A It's been the case ever since I've been on the  
14 commission.

15 Q Who determines when those quarterly meetings  
16 are going to be held?

17 A The chair.

18 Q Since you became the chair of the Advisory  
19 Commission, you would make that determination, the date  
20 and time when meetings are to be held; is that correct?

21 A Yes.

22 Q What is your role as chair?

23 A To conduct meetings of the Advisory Commission.

24 Q Do you, as chair, have any other communication  
25 in between quarterly meetings with the other members on

1 the commission?

2 MS. CARTER: Object to form.

3 THE WITNESS: From time to time, I would say  
4 so.

5 BY MR. DOUGHERTY:

6 Q During these communications in between  
7 quarterly meetings, do you discuss business, Advisory  
8 Commission business with other members?

9 A If I understood your question correctly, yes.

10 Q Do you have these discussions with other  
11 members in between quarterly meetings by email?

12 A On some occasions.

13 Q Do you still keep -- do you have those emails?

14 A I'm not sure.

15 Q When did you first become aware of this lawsuit  
16 that you're currently giving a deposition in?

17 A Probably at some point within the last six  
18 months or so.

19 Q You only became aware of this lawsuit within  
20 the last six months?

21 A I believe that's what I said, yes.

22 Q Has anyone from the AOC office reached out to  
23 you with a litigation hold letter?

24 A I have not receive a litigation hold letter  
25 from anyone.

1 Q When you became aware of this litigation six  
2 months ago, did you discuss with the other members on  
3 the Advisory Commission if they should hold on to  
4 emails?

5 A I did not.

6 Q How did you prepare for this deposition?

7 A Met with counsel.

8 Q That would be Ms. Carter?

9 A Correct.

10 Q Have you ever served on any other boards or  
11 commissions in Tennessee, other than the Advisory  
12 Commission?

13 A Yes.

14 Q What are those other boards and commissions?

15 A I was on the board of the directors for Pope  
16 John Paul II High School, on the board of the St. Thomas  
17 More Society of Middle Tennessee.

18 There are probably others that I've been on as  
19 well.

20 Q Have you ever served on any other boards or  
21 commissions where the AOC office provides administrative  
22 support, other than the Advisory Commission?

23 A Not that I recall.

24 Q Are you aware of similar meetings held by the  
25 federal courts and the federal advisory committees?

1 A No.

2 Q You're not aware of any of those meetings and  
3 what they do with regard to making federal rules?

4 A Correct.

5 Q You've never seen any or observed any of those  
6 federal advisory committee rule-making meetings?

7 A Correct.

8 Q When was the first time you ever became aware  
9 of those federal advisory committee meetings?

10 A Likely sometime during law school.

11 Q Is it your testimony you've never had that  
12 discussion with your current Tennessee Advisory  
13 Commission meetings regarding what the federal advisory  
14 committee meetings do?

15 A I believe that's true.

16 Q In 2022, you were the chair of the Tennessee  
17 Advisory Commission; is that right?

18 A Yes.

19 Q Were there quarterly meetings held during that  
20 year, 2022?

21 A Yes.

22 Q Was there a quarterly meeting in March of 2022  
23 that was held?

24 A Well, we have to check the record, but I  
25 believe so.

1 Q Was that meeting open to the public?

2 A I don't know.

3 Q You wouldn't know if the public was able to  
4 watch it?

5 A Well, first, I've told you that I'm not able to  
6 testify for certain that there was a meeting in March of  
7 2022. Even if there were such a meeting, I do not know  
8 whether the AOC or anyone else made any provision for  
9 public participation in that meeting.

10 Q Was that March 2022 meeting held remotely among  
11 the members of the Advisory Commission?

12 A If there was such a meeting, it was held  
13 remotely, yes.

14 Q Where were you when you participated in that  
15 meeting?

16 A Well, I do not recall that there was a meeting  
17 in March of 2022, even if there were, I could not,  
18 sitting here, tell you where I was.

19 Q Of the four quarterly meetings in March of  
20 2022, were any of those open to the public?

21 A I don't know.

22 Q Did you see any of the public participating in  
23 those meetings?

24 A No.

25 Q Was the June 2023 Advisory Commission meeting

1 open to the public?

2 A Depends on what you mean by "open to the  
3 public."

4 Q Was the June 9, 2023, Advisory Commission  
5 meeting livestreamed to the public?

6 A My understanding is that it was.

7 Q Why is that, your understanding? How do you  
8 know?

9 A Based on discussions with Michelle.

10 Q Is that Michelle Consiglio-Young?

11 A Yes.

12 Q What did she tell you about that June 9, 2023,  
13 meeting?

14 A Well, at some point, Michelle advised me,  
15 perhaps the other members of the commission, that Judge  
16 Richardson had issued some type of an injunction that  
17 provided for livestreaming of our Advisory Commission  
18 meetings. And she wanted to make sure that the members  
19 of the commission were aware that the meetings were  
20 going to be livestreamed.

21 Q Did Michelle Consiglio-Young tell you during  
22 any of the quarterly meetings of 2022 that those were  
23 going to be livestreamed?

24 A I don't recall.

25 Q Did you have a discussion with the members on

1 the Advisory Commission about the June 9, 2023, meeting  
2 being livestreamed to the public?

3 A No.

4 Q When is the -- did the Advisory Commission have  
5 a meeting in September of 2023?

6 A We did not.

7 Q Do you know why?

8 A I believe so.

9 Q And why is that?

10 A My understanding is that the AOC had intended  
11 to issue some type of a public notice regarding the  
12 meeting. But I think, in part, because Michelle was on  
13 maternity leave, the notice was not sent out when  
14 perhaps it otherwise would have been sent out.

15 And we made the decision, in light of the  
16 absence of that public notice, just to move the agenda  
17 items from the September 2023 meeting to the  
18 December 2023 meeting.

19 Q Was that meeting supposed to be held on  
20 September 8th, 2023?

21 A I believe that is correct.

22 Q At the end of the June 9th, 2023, livestream  
23 meeting, you said to the public that it was going to be  
24 held on September 8th, 2023, correct?

25 A I don't know.

1 Q Have you ever watched that livestreamed video?

2 A I have not.

3 Q Are you aware that the Tennessee courts have  
4 YouTube pages that you can watch the videos?

5 A I'm aware that one can watch oral arguments  
6 from the Supreme Court and the Court of Appeals on a  
7 YouTube channel.

8 Q Were you aware that people can also watch the  
9 June 9, 2023, meeting that was livestreamed to the  
10 public?

11 A I'm aware of that, yes.

12 Q Have you ever watched that video?

13 A I have not.

14 Q By having that June 9, 2023, meeting  
15 livestreamed to the public, did it cause you, as  
16 chair -- or did it burden you in terms of how you  
17 conducted the meeting?

18 A You've got two questions in there, counsel.

19 Q I apologize. I will strike that.

20 Having the June 9, 2023, meeting livestreamed,  
21 did that burden the meeting, from your perspective as  
22 chair?

23 A I can't say that I know exactly what you mean  
24 by "burden the meeting."

25 Q Did it cause you more stress, more problems in

1 terms of the way the meeting was conducted?

2 A Having the meeting livestreamed in June 2023  
3 did not cause me any stress. It did not cause me any  
4 problems.

5 Q So is it your testimony that the meeting that  
6 was livestreamed in June 2023 was very similar to other  
7 meetings that you've overseen?

8 A I have not testified to that, no.

9 Q Well, is there any difference between the  
10 June 9, 2023, meeting that was livestreamed to any other  
11 meetings that you've chaired?

12 A I'm sure there are, yes.

13 Q Well, can you tell me what those differences  
14 are?

15 A Sure. I mean, at some meetings, we simply  
16 discuss proposed rule changes. At other meetings, we  
17 actually vote on adopting amendments or recommending the  
18 adoption of amendments to the Supreme Court.

19 Q Did the June 9, 2023, meeting, the fact that it  
20 was livestreamed, did that interfere with the meeting  
21 itself?

22 A It did not.

23 Q Have you ever discussed with other members  
24 whether meetings should be open or closed to the public?

25 A Could you repeat that?

1 Q Yeah. Have you ever discussed with other  
2 members on the Advisory Commission whether meetings  
3 should be open or closed to the public?

4 A No.

5 Q You've never had that discussion?

6 A Correct.

7 Q Have the members themselves ever had that  
8 discussion amongst themselves?

9 MS. CARTER: Object to the form.

10 THE WITNESS: I don't know.

11 BY MR. DOUGHERTY:

12 Q Have you ever observed anybody talking about  
13 whether meetings should be open or closed to the public?

14 A Are you excluding discussions with counsel?

15 Q I'm certainly -- not your discussions with  
16 counsel.

17 I'm saying: Have you ever observed, at any  
18 point during your chairmanship, other individuals on the  
19 commission discussing whether that meeting should be  
20 opened or closed?

21 A I have not, no.

22 Q You mentioned a preliminary injunction that  
23 Judge Richardson issued. When was the first time you  
24 became aware of the preliminary injunction?

25 A I'm not sure.

1 Q Do you recall when Ms. Consiglio-Young told you  
2 about the preliminary injunction prior to the June 9,  
3 2023, meeting?

4 A I think, as I testified earlier, it's been at  
5 least six months that I've known about it. It could be  
6 longer.

7 Q Okay. So when Ms. Michelle Consiglio-Young  
8 first told you about the preliminary injunction, was  
9 that the first time you heard about the lawsuit?

10 A I believe so.

11 Q As part of your legal practice, do you do any  
12 first amendment work?

13 A I do not believe I've ever handled a first  
14 amendment case.

15 Q I probably should have clarified. Free speech,  
16 first amendment work?

17 You've never handled free speech, first  
18 amendment work?

19 A I do not believe I've ever had a case involving  
20 the first amendment or the right to free speech.

21 Q What is the nature of your law practice,  
22 Mr. Bulso?

23 A Commercial litigation.

24 Q I know that's kind of a broad area. Can you  
25 expand on that a little bit? What are the types of

1 cases you typically get involved in?

2 A We get involved in business disputes. I've  
3 handled cases involving commercial/residential real  
4 estate, federal estate securities, franchise litigation,  
5 transportation litigation, warranty fraud, Consumer  
6 Protection Act, breach of contract, other types of  
7 commercial disputes.

8 Q Now, on the website that I viewed this morning  
9 that list the members of the Advisory Commission, it  
10 list a vice chair. Her name is Catherine Clayton.

11 Do you know Ms. Clayton?

12 A Yes.

13 Q How long has she been the vice chair?

14 A I believe Cathy has been vice chair for as long  
15 as I have been chair.

16 Q Was she also on the committee when you first  
17 joined in 2016?

18 A If by "committee" you mean commission, no.

19 Q Correct. So Ms. Clayton came on the Advisory  
20 Commission after you had been appointed in 2016?

21 A I believe so, yes.

22 Q Did you make Ms. Clayton vice chair, or does  
23 the Supreme Court make that appointment?

24 A The Supreme Court makes that appointment.

25 Q So not only -- it's my understanding -- I just

1 want to understand this.

2                   The Supreme Court appoints the members to the  
3 Advisory Commission, correct?

4                   A    It does.

5                   Q    And the Supreme Court appoints the specific  
6 roles, like chair and vice chair; is that correct?

7                   A    Precisely.

8                   Q    Okay. Does the Tennessee Supreme Court also  
9 make the appointment on the judicial liaisons?

10                  A    It does.

11                  Q    Does the Tennessee Supreme Court make an  
12 appointment on the Supreme Court liaison?

13                  A    I believe it does.

14                  Q    Do you know why there's a distinction between  
15 judicial liaisons and Supreme Court liaison?

16                  A    Well, it may be that "judicial liaison" refers  
17 to judges who are not on the Supreme Court. And the  
18 Supreme Court liaison refers to a liaison who is.

19                  Q    Makes sense. I just was curious. When you  
20 look at the website, it makes a clear distinction. Have  
21 you ever looked at the website that lists your Advisory  
22 Commission before, on the AOC website?

23                  A    I have a vague recollection of having seen it  
24 several years ago.

25                  Q    Currently, it lists, under the judicial

1 liaison, the first person is Chancellor William Cole.

2 A Sure.

3 Q And was Chancellor Cole on the Advisory  
4 Commission in 2016?

5 A I don't recall.

6 Q You don't know if he was there when you first  
7 joined or if he came later?

8 A I do not.

9 Q The -- and it lists him as a chancellor. He's  
10 a chancellor in chancery court, as you understand it?

11 A He is.

12 Q James Hivner. Who is Mr. Hivner?

13 A He's the clerk.

14 Q Would that be the clerk of the Tennessee  
15 appellate courts?

16 A Exactly.

17 Q Is Mr. Hivner a judge?

18 A I do not believe so.

19 Q Is Mr. Hivner an attorney?

20 A I'm sure he is.

21 Q Okay. The next person under judicial liaison  
22 category on the website is Judge Carma Dennis McGee. Do  
23 you know Judge McGee?

24 A I do.

25 Q What court is Judge McGee -- what court does

1 she oversee?

2 A Court of Criminal Appeals.

3 Q Do you know what county?

4 A I'm not sure the Court of Criminal Appeals is  
5 restricted to a county.

6 Q Okay. So she's on the Court of Criminal  
7 Appeals?

8 A Yes.

9 Q Do you know if she's in the west, east, or  
10 middle grand division?

11 A That, I'm not sure of.

12 Q Are appointments made by the Tennessee Supreme  
13 Court Advisory Commission made based on the grand  
14 divisions, east, west and middle?

15 A I believe that is certainly a factor that the  
16 Supreme Court takes into account.

17 Q Do you know if that's a required factor in the  
18 statute?

19 A Yes.

20 Q It's your understanding that is a required  
21 factor in the statute?

22 A No, it's not.

23 Q It's not?

24 A No.

25 Q So you think the Supreme Court just makes that

1 their own decision to do that, have the representatives  
2 from each grand division?

3 A I might express that a bit differently. I  
4 would say that the statute that you referred to earlier,  
5 16-3-601, vests the Supreme Court with the authority to  
6 appoint members to the Advisory Commission, and the  
7 Supreme Court has the discretion about whom to appoint.

8 So it could, according to the statute, appoint  
9 all the members from one grand division. But in  
10 practice, I believe it has appointed members from all  
11 three grand divisions.

12 Q Currently, the current members that serve on  
13 the Advisory Commission of which you chair, is there a  
14 equal breakdown of members between east, west and middle  
15 grand divisions?

16 A I have not looked at it statistically, but my  
17 sense would be that each grand division is well  
18 represented on the commission.

19 Q The next individual under judicial liaisons is  
20 Judge Camille McMullen of Memphis, Tennessee. Do you  
21 know Judge McMullen?

22 A Yeah.

23 Q In what court does Judge McMullen serve?

24 A Also the Court of Criminal Appeals.

25 Q Where?

1 A Court of Criminal Appeals.

2 Q Also the Court of Criminal Appeals?

3 A (No audible response from witness.)

4 Q But Chancellor Cole would be in the lower trial  
5 chancery court; is that right?

6 A Correct. He's out in Hardeman County, McNairy  
7 County, that area.

8 Q The last judicial liaison listed is Judge  
9 Jennifer Smith of Nashville. Do you know Judge Smith?

10 A Yes.

11 Q What court does she oversee?

12 A She's in a trial-level court.

13 Q Do you know if that's circuit court or general  
14 sessions or chancery court?

15 A I am not certain.

16 Q But you think it's a trial-level court?

17 A I do.

18 Q And then there's one Supreme Court liaison,  
19 justice, Dwight Tarwater; is that right?

20 A That's correct.

21 Q I believe he started his tenure as Supreme  
22 Court justice on September 1, 2023; is that right?

23 A Yes.

24 Q So has he participated yet in any Advisory  
25 Commission meetings?

1 A No.

2 Q That would be because the September meeting,  
3 you all did not have it, right?

4 A That is correct.

5 Q When is the December meeting? When is it  
6 scheduled for?

7 A It is scheduled for the second Friday of  
8 December.

9 Q Do you have a date on that?

10 A As I'm sitting here, I do not recall the date,  
11 no.

12 Q Its looks like that might be December the 8th,  
13 on my calendar. But you said the second Friday; is that  
14 your testimony?

15 A Yes.

16 Q Are Advisory Commission meetings typically held  
17 on the second Friday of each month?

18 A For the last -- well, no.

19 For the last few years, we have held the  
20 meetings at 9:00 a.m. on the second Friday of March,  
21 June, September, and December.

22 Q Since when have you done that?

23 A At least for the last several years.

24 Q Since you've been there, since 2016?

25 A No. I wouldn't say that.

1 Q Well, can you recall when you started this  
2 March, June, September, December? Can you recall what  
3 year that was when that began?

4 A That's been the case ever since I've been on  
5 the commission.

6 Q You've been on the commission since 2016.

7 A Correct.

8 Q So has this March, June, September, December  
9 staggering of quarterly meetings happened since 2016?

10 A Yes.

11 Q Since you're not having a meeting in September  
12 in 2023, is the Advisory Commission communicating as to  
13 what you might otherwise be doing in your meeting? Are  
14 you communicating online with each other, emailing with  
15 each other?

16 MS. CARTER: Object the form.

17 THE WITNESS: Yeah. I'll have to ask you to  
18 rephrase the question, please.

19 BY MR. DOUGHERTY:

20 Q Since you're not going to have quarterly  
21 meetings in 2023 because there's no September meeting,  
22 is Advisory Commission business being conducted in  
23 another form or fashion?

24 A Well, I disagree with the predicate of your  
25 question, but the answer is no.

1 Q You disagree that there was no meeting in  
2 September of 2023?

3 A I do not disagree with that.

4 Q Well, what do you disagree with, the predicate  
5 of the question?

6 A The predicate of your question was, "Since  
7 quarterly meetings are not being held in 2023." It's  
8 inaccurate and I disagree with it.

9 Q Okay. How many meetings are going to be held  
10 in 2023?

11 A Three.

12 Q Does three meetings in 2023 satisfy the  
13 quarterly meeting standard?

14 A Yes.

15 Q It does?

16 A (No audible response from witness.)

17 Q And how is that?

18 A Because of the nature of what a quarterly  
19 meeting is. A quarterly is a meeting that's held every  
20 three months, and our meetings in 2003 (sic) have been  
21 held every three months.

22 Therefore, they are quarterly meetings.

23 Q You said "2003." We're referring to 2023.

24 A Exactly.

25 Q Okay. When did you -- when were the meetings

1 in 2023?

2 A We had one in March. We had one in June. We'll  
3 have one in December.

4 Q From June meeting until the December meeting,  
5 how many months is that?

6 A Six.

7 Q So then, you would agree that there haven't  
8 been meetings in 2023 every three months?

9 A I will agree that there was no September  
10 quarterly meeting.

11 Q But it's your testimony there will only be  
12 three meetings in September -- excuse me -- three  
13 meeting in 2023?

14 A That is correct.

15 Q The next would be in the second Friday in  
16 December?

17 A Yes.

18 Q At 9:00 a.m.?

19 A Exactly.

20 Q That will be livestreamed to the public, right?

21 A I don't know.

22 Q You're waiting for Ms. Michelle Consiglio-Young  
23 to tell you?

24 A I am not waiting on anything, counsel.

25 Q Did you receive a copy of the preliminary

1 injunction?

2 A Well, let me answer it this way.

3 At some point, I went on PACER and got the  
4 preliminary injunction.

5 Q Did anyone from the Tennessee Administrative  
6 Office of Courts provide you with a copy of the  
7 preliminary injunction?

8 A I do not recall.

9 Q You don't recall if Ms. Consiglio-Young  
10 provided you with a copy of the preliminary injunction?

11 A Correct. I do not believe that anyone at the  
12 AOC provided me a copy of the preliminary injunction.  
13 It's possible, but I just do not recall it.

14 MS. CARTER: Counsel, when you have a minute,  
15 if we can take five minutes for a comfort break, that  
16 would be great.

17 MR. DOUGHERTY: Yeah. We can go ahead and do  
18 that. There's no question on the table. That's fine.

19 It's 10:05. When do you want to come back?

20 MS. CARTER: I'm just going to run down to the  
21 ladies' room.

22 MR. DOUGHERTY: We can do 10 minutes or 15. It  
23 doesn't matter to me.

24 MS. CARTER: That's fine.

25 MR. DOUGHERTY: We will be back at 10:15.

We'll take a break now, Mr. Bulso.

(Whereupon, a recess was taken

from 10:06 a.m. to 10:12 a.m.)

MR. DOUGHERTY: We're back on the record, Mr.

Bulso.

BY MR. DOUGHERTY:

Q What is the process, from your understanding, once the Advisory Commission transmits the rule recommendations to the AOC office?

What happens after that?

A Well, I would not characterize it as what happens as a transmission from the Advisory Commission to the AOC. That is a bit of a seamless process because the AOC is in the meetings when the rule recommendations are adopted.

And once we vote on and approve a proposed change to the rules, I do not know by what process the AOC notifies the Supreme Court of that.

Understood.

Is it your understanding -- and I'm trying to get to if the General Assembly is involved at any point after the Advisory Commission's rule recommendations.

A Sure .

Q So is the General Assembly involved at any point after the Advisory Commission makes -- votes and

1 makes its rule recommendations?

2 A Yes.

3 Q Can you tell me what your understanding of that  
4 process is, that the General Assembly then gets involved  
5 at some point?

6 A Sure. At some point, the Supreme Court will  
7 propose changes to the rules of civil or criminal  
8 procedure, and those proposals are sent to the General  
9 Assembly by way of resolutions. And in order for any  
10 rule change to go into affect, the rule change has to be  
11 approved by resolution in the House and in the Senate.

12 Q And then is that when the rule becomes final,  
13 at some point?

14 A I think the rule becomes effective once those  
15 resolutions have been adopted.

16 Q By the General Assembly?

17 A Yes.

18 Q Is that typically in July, maybe July 1st of  
19 each year?

20 A I believe the effective date on those  
21 resolutions typically is July 1 of each year.

22 Q Is the public ever notified at any point? Is  
23 there some type of public and notice comment period  
24 after the commission makes its recommendations?

25 A Yes.

1 Q What is your understanding of that process?

2 A That at some point, when the Supreme Court  
3 decides that it is contemplating a rule change, that it  
4 will put the proposed change out for public comment.

5 Q Are you, as chair, or is the Advisory  
6 Commission involved in that process with the Supreme  
7 Court?

8 A No.

9 Q Does that happen immediately and  
10 contemporaneously, when the Advisory Commission votes on  
11 its recommendations?

12 A No.

13 Q That happens after?

14 A Yes.

15 Q Do you know how long after?

16 A I do not.

17 Q Does the public notice and comment period, is  
18 that predicated when the Supreme Court sends the proposed  
19 rule to the general assembly?

20 A Yes.

21 Q Are you, as chair, or any members of the  
22 Advisory Commission involved in that process with the  
23 General Assembly or the public notice and comment  
24 period?

25 A Yes.

1 Q How?

2 A In my role as chairman of the Advisory  
3 Commission, I have, in the past, appeared at meetings of  
4 the Civil Justice Subcommittee to the extent testimony  
5 would be necessary before the House on the proposed rule  
6 changes.

7 Q How many times have you appeared at hearings to  
8 provide testimony on proposed rule changes?

9 A At least twice.

10 Q Do you recall when that was?

11 A Sometime between 2020 or -- strike that.

12 Sometime likely between 2018 and today.

13 Q How were you notified that your testimony at  
14 these hearings were necessary?

15 A Well, let me amend that question slightly,  
16 'cause there have been times when I've gone and I  
17 haven't actually testified.

18 What occurs is that Michelle tells me that, on  
19 a particular day, a rules package will be presented to  
20 the subcommittee or the full committee of the Civil  
21 Justice Committee and the House, and then I will be  
22 present in the event that testimony is necessary.

23 But in every instance previously, before this  
24 year, I've been notified by Michelle that the package is  
25 going to be submitted, and myself, either as vice chair

1 or chair, would be there in case testimony were  
2 necessary.

3 Q When you say "Michelle," you're referring to  
4 Michelle Consiglio-Young of the AOC?

5 A Correct.

6 Q You said you were -- how long did you serve as  
7 vice chair?

8 A For at least a year, possibly two years.

9 Q Does the Advisory Commission, are they required  
10 to do any kind extra training above and beyond your  
11 normal CLE-required hours?

12 A No.

13 Q Are there ever any kind of meetings about what  
14 the federal equivalent advisory committees is doing or  
15 not doing?

16 A I have never been a party to any such meeting.

17 Q The rule recommendations that the Tennessee  
18 Advisory Commission evaluates, is there ever any  
19 consideration with what the federal rules -- what  
20 they're doing in the federal rules?

21 A Sure.

22 Q Can you elaborate on that, please?

23 A (No audible response from witness.)

24 Q And let just ask a couple questions as a  
25 lead-in.

1           It's my understanding that the Tennessee rules  
2 can make its own rules for court procedure; is that  
3 correct?

4           A    (No audible response from witness.)

5           Q    Assuming the process is -- goes through the  
6 process.

7           A    Let me answer it this way.

8           Q    Sure.

9           A    I mean, in Title 16, the General Assembly has  
10 vested the Tennessee Supreme Court with the authority to  
11 promulgate rules for all the civil and criminal courts.  
12 That's what happens in Tennessee.

13          Q    I understand that Tennessee does not have to  
14 follow what the federal rules, what they do. You would  
15 agree with that?

16          A    A hundred percent.

17          Q    Is it fair to say that, historically, the  
18 Tennessee rules somewhat mirror the federal rules?

19          A    In some respects.

20          Q    So would that typically be who -- your  
21 commission would look to see what the federal rules are  
22 doing? That would be kind of your guide post, so to  
23 speak; would you agree with that?

24          A    Not as you've stated it. I would say that we  
25 look at federal rules of civil procedure. We look at

1 other states' rules of civil procedure, and try to look  
2 at what would be the best practice for the state of  
3 Tennessee.

4 Q What would you say the percentage of Tennessee  
5 rules are that follow the federal rules? Would it be,  
6 like, 90 percent of the Tennessee rules are about the  
7 same as the federal equivalent rules? Would that be a  
8 fair number?

9 A I doubt it. I think it would be lower than  
10 that.

11 Q You think it would be lower than that? What do  
12 you think it would be?

13 A Well, we have to go rule by rule. If you look  
14 at Rule 4 on service of process, they are similar, but  
15 they're not identical. If you look at Rule 6 on timing,  
16 they are similar, but they're not identical. If you  
17 look at Rule 8 on pleadings, they are similar, but  
18 they're not identical. If you look at the process under  
19 Rule 12, they're similar, but they're not identical.

20 If you get to Rule 26 and you're dealing with  
21 discovery of fact witnesses and expert witnesses,  
22 they're similar, but not identical. If you look at Rule  
23 38 on the practice of jury selection, once again,  
24 they're similar, but they're not identical.

25 So I would have a very difficult time believing

1 that 90 percent of our state rules are the same as what  
2 we've got in the federal rules.

3 Q When the Advisory Commission is coming up with  
4 its rule recommendations, does it look to the federal  
5 rules to say, "What are the feds doing? Do we want to  
6 do that or not want to do that?"

7 Is that part of your process?

8 A We certainly have had members that propose  
9 changes based on what's going on in federal courts.

10 Q Do you know why that is?

11 A Sure. Because sometimes the federal rules have  
12 a process or procedure that would benefit litigation in  
13 Tennessee.

14 Q Now, as part of the rules that are published,  
15 once they're adopted by the General Assembly, there's  
16 usually -- as I understand it, in the rules, there's,  
17 like, a comment section that says, "Advisory  
18 Commission."

19 Do you know what I'm referring to?

20 A I do.

21 Q Is that the Advisory Commission on the Rules of  
22 Practice and Procedure that you chair?

23 A It is.

24 Q Who publishes that? Is that something that you  
25 get involved in? Does the AOC get involved in it? How

1 does that get transmitted to some type of published rule  
2 when you have the Advisory Commission comments?

3 A It's something that we vote on in the Advisory  
4 Commission. If we adopt a new rule or amend an existing  
5 rule, often there is a comment that explains why that  
6 change was made.

7 And so what we send through the AOC to the  
8 Supreme Court will be not just a proposed rule change,  
9 but a proposed Advisory Commission comment. And  
10 ultimately, that will follow all the way through the  
11 process and be part of the resolution, as presented to  
12 the General Assembly.

13 If it's adopted, it becomes part of the  
14 official rule package.

15 Q So any time --

16 Are all proposed rule changes, do they -- do  
17 they come with an Advisory Commission comment?

18 A Many times, yes.

19 Q But not all the time; is that your testimony?

20 A I think that's correct, yes.

21 Q Do you ever look at when the AOC sends out for  
22 the public notice and comment period -- well, let me  
23 back up.

24 Who sends that out, the public notice and  
25 comment period, to the public?

1 A I'm not sure.

2 Q Is it on the AOC website, typically?

3 A I don't know.

4 Q You've never looked?

5 A Correct.

6 Q Do you know if the Tennessee Supreme Court and  
7 the AOC, if they share the same website?

8 A I'm not sure how to answer that, but what I can  
9 tell you is that the Tennessee Administrative Office of  
10 the Courts maintains the website. And part of the  
11 website reflects arguments in front of the Supreme  
12 Court, opinions issued by the Supreme Court, arguments  
13 before the Court of Appeals, opinions from the court of  
14 Appeals.

15 So when you say, "Do they share the same  
16 website," I'm not really sure.

17 Q If I wanted to pull up the Advisory Commission  
18 on the Rules of Practice and Procedure on the AOC  
19 website, would I go to the AOC website?

20 A If you wanted to do what?

21 Q To look at the Advisory Commission names and  
22 members, would I go to the AOC website?

23 A As far as I'm aware, the names of the  
24 commission members are posted on the AOC website.

25 Q If I wanted to look up oral arguments or

1 opinions from the Tennessee Supreme Court, would I go to  
2 the same AOC website or would I go to a different  
3 website?

4 A The same website.

5 Q Okay. Do you ever get with Michelle  
6 Consiglio-Young at the beginning of a calendar year to  
7 map out agendas or meetings notices? Do you do anything  
8 like that at the beginning of each calendar year?

9 A Well, I've never done what you've asked, but I  
10 have met with Michelle about other things.

11 Q Related to the Advisory Commission?

12 A Probably.

13 Q How often do you meet with Michelle  
14 Consiglio-Young regarding the Advisory Commission?

15 A I'd say, over the seven years that I've been on  
16 the commission, maybe two or three times.

17 Q Two or three times total?

18 A Yes.

19 Q Is that when she tells you about a package that  
20 the General Assembly may be considering, a rules  
21 package?

22 A No.

23 Q Okay. What were those two or three times?  
24 What were they related to?

25 A Well, just likely how to make the commission

1 operate as efficiently as possible, whether we should  
2 use the committee structure, whether we should have  
3 subcommittees, who we should perhaps assign to  
4 committees to make sure that they're evenly and  
5 appropriately staffed.

6 Q Okay. I think you said -- I want to make sure  
7 I understood this.

8 Did you say in your earlier testimony that you  
9 serve at the pleasure of the Tennessee Supreme Court?

10 A I did say that.

11 Q Is that language, is that in the statute?

12 A Yes.

13 Q It is?

14 A It is implicitly in 16-3-601.

15 Q I think, as I recall, the AOC director uses  
16 that language, "Serves at the pleasure of the chief  
17 justice of the Supreme Court"; would that be correct?

18 A I don't know.

19 Q But you're saying implicitly, you, as the  
20 chair -- who do you serve at the pleasure of, the  
21 Supreme Court or the Chief Justice?

22 A The Supreme Court.

23 Q Tell me how that is implicit. What does that  
24 mean? What do you do vis-à-vis your relationship with  
25 the Supreme Court members?

1       A    Well, the statute states explicitly that it's  
2 the Supreme Court who appoints the members. So at any  
3 day, the Supreme Court could decide to appoint someone  
4 else.

5       Q    Okay. So do you -- let's say through a year,  
6 and you're about to have four quarterly meetings.

7       A    All right.

8       Q    Would you ever communicate with any members of  
9 the Supreme Court during the course of that year about  
10 potential Advisory Commission roles?

11           MS. CARTER: Object to form.

12           THE WITNESS: I've never done that about a  
13 rule. But, I mean, certainly I've had communications  
14 with our Supreme Court liaison over times about other  
15 things.

16 BY MR. DOUGHERTY:

17       Q    How do you communicate with your Supreme Court  
18 liaison? Do you do it while you're at the meeting or at  
19 a later time?

20       A    By telephone, typically.

21       Q    Who was the Supreme Court liaison in 2022 from  
22 the Supreme Court?

23       A    Justice Lee.

24       Q    How often did you communicate by telephone with  
25 Justice Lee during the 2022 calendar year?

1 A Likely once or twice.

2 Q Once or twice?

3 A (Witness nods head up and down.)

4 Q Do you recall what the nature of those calls  
5 were about?

6 A Yes. Questions about reappointment as chair.  
7 Reappointment to the commission.

8 Q Why would you communicate with Justice Lee  
9 about that, those issues?

10 A Because it's -- the Supreme Court appoints the  
11 members of the commission. It's the Supreme Court who  
12 appoints the chair, the vice chair, the reporter, and  
13 the other offices of the commission.

14 Q Well, do you ever -- have you, in the past,  
15 ever communicated with any members of the Supreme Court  
16 about the Advisory Commission, other than the Supreme  
17 Court liaison?

18 A No.

19 Q So your point of communication in the past has  
20 always been with the individual who's named as the  
21 Supreme Court liaison?

22 A Correct.

23 Q I'm not talking about communications you might  
24 have at a bar function. I'm only referring, when I talk  
25 about these communications, related to the Advisory

1 Commission and your duties.

2 A That's the way I understood your question.

3 Q Okay. Did Justice Lee have any information or  
4 comments back to you during your one or two meetings  
5 with her in 2022?

6 A I don't believe I had any meetings with you.

7 Q Well, I think -- my understanding, I said, "How  
8 many meeting in 2022 by telephone," and I think you  
9 said, "One or two."

10 Was that your testimony?

11 A My testimony was intended to be that I spoke  
12 with her by phone once or twice. They were not  
13 meetings --

14 Q Okay.

15 A -- in person.

16 Q The one or two times in 2022 when you spoke by  
17 phone with Justice Lee, do you recall what information  
18 Justice Lee said to you or gave to you?

19 A In general, yes.

20 Q Okay. What was that?

21 A Had to do with reappointment as chairman of the  
22 commission, possibly reappointment to the commission  
23 itself.

24 Q Were you calling Justice Lee, at that point, to  
25 see if you were going to be reappointed, or you were

1 requesting reappointment?

2 Explain that a little bit, please.

3 A I don't believe I called her. Most likely, she  
4 called me.

5 Q Okay. When she called you during those one or  
6 two times, what did she say?

7 A In words or in substance, "The Supreme Court  
8 would like you to continue to serve on the commission.  
9 The Supreme Court would like you to continue to serve as  
10 chair."

11 Something to that effect.

12 Q Do you recall in 2022 when that happened, those  
13 one or two times?

14 A I do not.

15 Q I'm going to jump back to the -- what I viewed  
16 on the AOC website this morning, okay, regarding the  
17 Advisory Commission and the members that are listed.

18 There's another heading. It says -- and we  
19 talked about Justice Tarwater, who was just appointed to  
20 the Supreme Court. I think Justice Lee retired.

21 Is that accurate?

22 A She did.

23 Q There's a heading here that says, "Assigned  
24 staff attorney (criminal)," and the individual is  
25 Elizabeth Ryan, Supreme Court staff attorney.

1                   What is Ms. Ryan's role on the Advisory  
2 Commission?

3                   A    Let me answer it this way.

4                   I don't know that she's actually on the  
5 commission. I know that Elizabeth is in our meetings,  
6 along with Jeff Zager, as counsel, and they participate  
7 in the meetings there. They do not vote on proposed  
8 rule changes, but they provide expertise and guidance on  
9 various issues.

10                  Q    Well, if someone's not on the commission, how  
11 do they get to go to the meetings? I don't understand  
12 that.

13                  Can you explain that?

14                  MS. CARTER: I'm going to object to the form.

15                  Go ahead.

16                  THE WITNESS: My explanation is that the  
17 Tennessee Supreme Court has authority to decide who the  
18 members of the commission are and how the meetings  
19 proceed, and that, at some level, the Supreme Court has  
20 determined that having those in the position of  
21 Elizabeth Ryan and Jeff Zager would be helpful to the  
22 commission's business.

23                  And so they have, since I can remember, been in  
24 attendance at the meetings.

25 BY MR. DOUGHERTY:

1 Q How long has Ms. Ryan been in attendance at the  
2 meetings?

3 A For as long as I can remember.

4 Q What does she do? What is your understanding  
5 of Ms. Ryan's role at these meetings?

6 A To lend expertise to the subject matter of the  
7 discussions.

8 Q Is Ms. Ryan a judge, or she a practicing  
9 attorney? Do you know?

10 A I do know, and she's an attorney. She's not a  
11 judge.

12 Q Okay. The other person, it says, "Assigned  
13 staff attorney (civil), Jeff Zager." I think you  
14 mentioned his name. You are saying Mr. Zager  
15 participates in all the meetings?

16 A He's participated in all of the meetings that I  
17 can remember, yes.

18 Q Okay. Mr. Zager would have participated in  
19 quarterly meetings in 2022?

20 A Yes.

21 Q Did Ms. Ryan participate in the quarterly  
22 meetings in 2022?

23 A I believe so.

24 Q Did Mr. Zager participate in the meetings thus  
25 far in 2023?

1 A I'm not entirely sure, but I believe so.

2 Q Did Ms. Ryan participate in the meetings thus  
3 far in 2023?

4 A I believe so.

5 Q Just to confirm, the reporter, Ms. Zehrt, did  
6 she participate in the meetings in 2022?

7 A I'm not sure.

8 Q Do you know when she was appointed to the  
9 Advisory Commission?

10 A It was, I believe, either in 2022 or 2023.

11 Q I believe, as I understand your testimony, you  
12 said that the Supreme Court makes appointments of  
13 members to the Advisory Commission; is that accurate?

14 A That's what I testified to, yes.

15 Q Do they enter any type of judicial order when  
16 they make these appointments? Are you aware?

17 A Yes, I am aware. Yes, they do.

18 Q Do they make judicial orders when they appoint  
19 judicial liaisons to the Advisory Commission?

20 A I believe so.

21 Q Do they make judicial orders when they appoint  
22 and assign staff attorneys? For example, Ms. Ryan or  
23 Mr. Zager?

24 A I'm not sure.

25 Q Okay. Do they make judicial orders when they

1 appoint a reporter, like Ms. Zehrt, for example?

2 A I believe so.

3 Q Okay. Do they make judicial orders when they  
4 appoint someone like an AOC contact, like Ms. Michelle  
5 Consiglio-Young?

6 A I'm not sure.

7 Q As far as you recall, Ms. Michelle  
8 Consiglio-Young has served at least until you have been  
9 on the commission, since 2016?

10 A That's my memory.

11 Q Okay. Are all of the other people that are  
12 listed on the AOC website for the Advisory Commission,  
13 other than judicial liaisons, are all those individuals  
14 in private practice? Are they private attorneys?

15 MS. CARTER: Object to the form.

16 THE WITNESS: For the most part.

17 BY MR. DOUGHERTY:

18 Q The only one I don't see, from what I'm seeing,  
19 it says "ESQ" after pretty much everything. What is  
20 your understanding of ESQ?

21 A It's an abbreviation for the word "esquire."

22 Q What does that mean? Does that mean an  
23 attorney?

24 A It's a suffix that oftentimes you'll see  
25 appended to the name of an attorney.

1 Q There's a Representative William Lamberth of  
2 Nashville, Tennessee that does not have the "ESQ" next  
3 to his name. Who is Representative Lamberth?

4 A He's a member of the Advisory Commission, and  
5 also a member of the Tennessee House of Representatives.

6 Q Is Representative Lamberth an attorney? Do you  
7 know?

8 A I do know. Yes, he is an attorney.

9 Q He is an attorney?

10 A (Witness nods head up and down.)

11 Q Is he -- do you know what -- is he with a  
12 particular firm that you're aware of?

13 A He has his own firm in Sumner County.

14 Q Andree Blumstein is listed here. As I recall,  
15 Ms. Blumstein is the current solicitor general; is that  
16 right?

17 A That is correct.

18 MR. DOUGHERTY: I think someone else,  
19 Mr. Stahl, may have some questions.

20 I'll pass the witness, Mike.

21 EXAMINATION

22 BY MR. STAHL:

23 Q Representative Bulso, have you ever personally  
24 denied a member of the public the option of attending an  
25 Advisory Commission meeting?

1 A I have not.

2 Q Do commission members ever disagree about  
3 proposed rule changes?

4 A Yes.

5 Q Does the commission ever assign subcommittees  
6 to examine proposed rule changes?

7 A We have committees. We have no subcommittees.

8 Q You mentioned earlier that you'll testify  
9 before the House or the General Assembly about proposed  
10 rule changes that may have gone up through the AOC to  
11 the Tennessee Supreme Court; is that right?

12 A Yes.

13 Q When you are at those proceedings, whether you  
14 testify or not, do you know if those proceedings are  
15 open to the public?

16 A I do.

17 Q Are they?

18 A They are.

19 Q Have you ever been involved in a commission  
20 meeting where you noticed that members of the public  
21 were present?

22 A I do not recall such a meeting.

23 Q As chair of the Advisory Commission, do you  
24 believe that honest and frank discussions among the  
25 members is in the committee's best interest?

1 A Yes.

2 Q Have you ever had a rule change that you  
3 submitted through the AOC to the Tennessee Supreme Court  
4 that the General Assembly denied?

5 A By the Supreme Court?

6 Q Uh-huh.

7 A Yes.

8 Q Have you ever noticed that a submitted proposed  
9 rule change and the advisory comments that you said you  
10 most often submit with those have been amended or  
11 changed in any way before being accepted?

12 A That has happened as well.

13 MR. STAHL: That's all I have.

14 EXAMINATION

15 BY MR. DOUGHERTY:

16 Q When did these changes -- what years did that  
17 occur, where the Supreme Court either denied -- well,  
18 when did the Supreme Court deny a proposed rule change  
19 that the Advisory Commission made?

20 A My recollection is that that occurred with  
21 regard to a proposed change regarding mandatory  
22 disclosure under Rule 26.

23 Q Do you recall what year that might have been?

24 A No. I could not recall the year that occurred.

25 Q Would there be a record somewhere on the AOC

1 website or the Supreme Court orders? Do you know?

2 A I know that there would be a written record  
3 that a rule was proposed to the Supreme Court, and that  
4 the Supreme Court did not adopt it.

5 Q Where would that be? Would that be in your  
6 typically Lexis/Westlaw search, or where would that be?

7 A Well, it would be in a number of places. It  
8 would be a written record of what the commission  
9 approved. There'd be some writing of the communication  
10 of that action to the Supreme Court, and then there  
11 would be, perhaps, no further action by the Supreme  
12 Court on putting that proposed rule out for public  
13 comment or change.

14 Q Do you recall what year it was when there was  
15 a -- the Supreme Court rewrote the recommended rule or  
16 changed it somehow? Do you recall when that would have  
17 been?

18 A I can't recall the precise year.

19 Q But you're saying it would -- it's your  
20 understanding that there would be some type of record of  
21 what the Advisory Commission recommended versus what was  
22 actually enacted?

23 A Absolutely.

24 Q Were -- those times when the Supreme Court  
25 either made a change or denied, were you ever required

1 to testify before the General Assembly?

2 A I don't recall.

3 MR. DOUGHERTY: I don't think I have anything  
4 else.

5 MR. STAHL: I just have one more question.

6 EXAMINATION

7 BY MR. STAHL:

8 Q Does every meeting result in a vote?

9 A No.

10 MR. STAHL: That's all I have.

11 MR. DOUGHERTY: We're on the same schedule, an  
12 hour and 45 minutes for both of our first depos.

13 MS. CARTER: You have the right to read and  
14 sign, so do you want to read and sign your deposition?

15 THE WITNESS: No, I'll waive it.

16 THE STENOGRAPHER: Do you want a copy of the  
17 transcript?

18 MR. DOUGHERTY: Yes, I do.

19 We're off the record.

20

21 (At 10:47 a.m. Central Time,  
22 proceedings concluded.)

23

24

25

## **REPORTER'S CERTIFICATE**

**STATE OF TENNESSEE**

## COUNTY OF DAVIDSON

I, Saba Mc Kinley, court reporter, with offices in Clarksville, Tennessee, hereby certify that I reported the foregoing deposition of GINO BULSO by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

I am not related to any of the parties named herein, nor related to their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

I further certify that in order for this document to be considered a true and correct copy, it must bear my original signature, and that any unauthorized reproduction in whole or in part and/or transfer of this document is not authorized, will not be considered authentic, and will be in violation of Tennessee Code Annotated 3-914-104, Theft of Services.

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Certified Reporting Instructor

LCR #843 - Expires: 6/30/2024

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